

FAPESP 203 US (10026221)

REMARKS/ARGUMENTS

Claims 1-8 and 17-28 will be pending.

Claims 5-7 and 29 are under examination, but in the restriction requirement of May 4, 2006, the Examiner indicated that claim 5 linked to claim 8, and that upon allowance of claim 5, restriction would be withdrawn.

Point 14 of the restriction requirement suggests the amendment of claim 1 to refer to claim 5, and the inclusion of claims 1-4 and 17-28.

Turning to the Office Action, point 2 has been complied with, points 1 and 3 require no comment and point 4 was discussed supra. Point 5 requires no comment.

Claim 29 is canceled, rendering the issue in point 6 moot.

Point 7 is discussed infra.

Points 8-10, the prior art rejection, were discussed during the February 6, 2007 telephonic interview. Applicants representative pointed out that the primary reference relied upon (Ford), teaches one polypeptide, 177 amino acids in length. Claims written in consisting of language, permits no polypeptide longer than 50 amino acids.

The Examiner agreed that the prior art offers no suggestion or motivation to truncate a 177 amino acid polypeptide to one of 50 amino acids. Nor is there any suggestion that in so doing, the anti-carcinogen protein of Ford would acquire antimicrobial properties. Withdrawal of the prior art rejection, as agreed to, is requested.

Regarding the rejections under 35 U.S.C. § 112, discussion centered around claim 7. Applicants representative pointed out that amidation carboxyomethylation and cyclization of polypeptides are all reactions that are well known to the art. The Examiners agreed that Federal Circuit precedent did not require applicants to actually show the reactions encompassed by the claims.

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Written description for claim 7 is provided by claim 7, as filed originally, page 4, lines 19-22, and page 18, line 28 - page 19, line 15, for example.

During the interview, the Examiner agreed that written description support was present.

Regarding inventorship, applicant's representatives were unaware of the problem. Please note the following copies:

- (1) Schofield letter of September 18, 2006;
- (2) Schofield letter of December 1, 2006;
- (3) Weiss letter of December 7, 2006; and
- (4) Weiss letter of December 12, 2006, with the attached request for a change.

All issues have now been addressed, and allowance of the application is believed proper.

Please charge the fee due to our Deposit Account No. 06-2375, under Order No. FAPESP 203/10026221 from which the undersigned is authorized to draw.

Respectfully submitted,

By 

Norman D. Hanson

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Attorney for Applicant

Attachments: Petition for Extension of Time (2-months)

Schofield letter of September 18, 2006;
Schofield letter of December 1, 2006;
Weiss letter of December 7, 2006; and
Weiss letter of December 12, 2006, w/ attachment

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September 18, 2006

VIA FACSIMILE ONLY

FROHWITTER
P. O. Box 86 03 68
D-81630 München
GERMANY

Re: European Patent Application No. 02 012 237.0
For: ANTIMICROBIAL PEPTIDES AND METHOD IDENTIFYING AND
USING SUCH PEPTIDES
Your Ref.: F81186EP
Our Ref.: FAPESP 203 EP/10205387

Dear Sirs:

In reviewing the published European patent application, we noted that only two of the four inventors are recited on the face of the application. Is this an error on the part of the European Patent Office and may it be corrected? Our original instruction letter (enclosed) has the names and addresses of the four inventors.

We look forward to hearing from you.

Very truly yours,

Mary Anne Schofield
Mary Anne Schofield

MAS/bad

Enclosure

cc: Norman Hanson, Esq.

25697491.1

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May 9, 2002

attachment to
9/18/06 ITR

VIA FACSIMILE 011-49-89-9980-9555
Confirmation by Federal Express

Dr. Christian Helbig
Frohwitter
P.O. Box 86 03 68
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GERMANY

New European Application based on U.S. Application No. 09/870,498
Our Reference: FAPESP 203 EP

Dear Christian:

Our client wishes to file a European application based on a U.S. application filed June 1, 2001. Norman Hanson suggested that we ask you to be our local counsel and attend to filing this application and assist in its prosecution. Enclosed with the confirmation copy of this letter is a copy of the U.S. application.

We have listed the particulars of this application below:

Title: ANTIMICROBIAL PEPTIDES AND METHOD FOR IDENTIFYING AND USING SUCH PEPTIDES

Inventors:

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Page 2

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FEB 07 2007

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Name Arnaldo da Silva Junior
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Citizenship BR

Applicant/Assignee:

Name Fundacao de Amparao a Pesquisa do Estado de Sao Paulo (FAPESP)
Address Rua Pio XI, 1500
 CEP 05468-901
 Alto da Lapa
 Sao Paulo
 BRAZIL

Priority application: 09/870,498

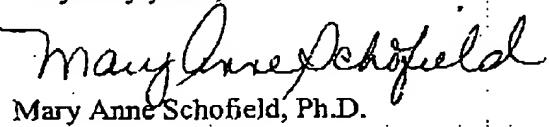
Priority filing date: June 1, 2001

Would you provide us with a Power of Attorney and any other documents that are necessary for effecting the filing. Presently we do not have a recorded US assignment and do not believe that we can have the assignment recorded and returned prior to the European filing date. Is a copy of an unrecorded US or Brazilian assignment acceptable in Europe. The inventors are under an obligation to assign to the Applicant FAPESP.

We will order a certified copy of the priority document for filing in Europe.

Please let us know if you need any additional information. We look forward to working with you.

Very truly yours,


Mary Anne Schofield, Ph.D.

MAS/vc
Enclosure
cc: Norman D. Hanson, Esq. (w/o enc.)

WEICKMANN & WEICKMANN

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European Patent Attorneys · European Trademark and Design Attorneys

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Bestätigung
Confirmation

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DPL-CHEM. B. RUBER (Dis 31.7.2006)
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HER-ZICHEN / YOUR REF.
FAPESP203EP

UNSER-ZEICHEN / OUR REF.
39319P EP/MDpv

DATUM / DATE
Dec 12, 2006

European Patent Application No. 02 012 237.0
Fundacao de Amparo a Pesquisa do Estado de Sao Paulo (FAPESP)

Dear Dr. Schofield,

We refer to your letter dated December 01, 2006.

As can be seen from the enclosure we have requested a correction of the inventor's data at the EPO. Once we have received the confirmation we will forward a copy to you.

Please find enclosed our invoice for services rendered.

Very truly yours,

Dr. Michael Dey

Encl.
Letter to EPO
Invoice

FULBRIGHT & JAWORSKI, LLP
IPT DOCKETING
Docketed Not Req'd Confirmation
Initials 1st. Initials 2nd.

DEC 18 2006

Attorney _____
Docket No. _____
Action Req'd _____ Date Due _____

WEICKMANN & WEICKMANN

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European Patent Attorneys · European Trademark and Design Attorneys

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IHR ZEICHEN / YOUR REF.

UNSER ZEICHEN / OUR REF.
39319P EP/MDpv

DATUM / DATE

12. Dez. 2002

Application/Patent No:
02 012 237.0

Applicant/Proprietor:

Fundacao de Amparo a Pesquisa do Estado de Sao Paulo (FAPESP)

We refer to the designation of inventor filed on July 03, 2002 by Frohwitter et al. In total four inventors were designated, however on the A3 publication only two were mentioned. We request a correction and the inclusion of inventors: Paulo Arruda and Arnaldo da Silva Junior.

Please confirm that the correction has taken place.

Dr. Michael Dev

Fulbright (NY) Received 12/06 09:21AM in 01:52 on line [5] for MS0105 * Pg 3/3
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39319P EP/MDWWrm

DATUM / DATE

7 Dec 2006

European Patent Application No. 02 012 237.0
Fundacao de Amparo a Pesquisa do Estado de Sao Paulo (FAPESP)

Dear Dr Schofield,

Thank you for your letter dated 1 December 2006 in the above case.

Having reviewed the file, we found that the previous representative correctly mentioned four Inventors in the designation of Inventor form filed on 3 July 2002 with the European Patent Office. Thus, the recitation of only two inventors on the published application is an error on part of the EPO.

We will file a request for correction.

Yours sincerely,

Dr W Weiss

FULBRIGHT & JAWORSKI, LLP

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Initials 1st _____ Initials 2nd _____

DEC 7 2006

Attorney _____

Docket No. _____
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December 1, 2006

**VIA FACSIMILE
CONFIRMATION VIA AIRMAIL**

Dr. W. Weiss
Weickmann & Weickmann
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Re: European Patent Application No. 02 012 237.0
For: ANTIMICROBIAL PEPTIDES AND METHOD IDENTIFYING AND
USING SUCH PEPTIDES
Your Ref.: Please Provide
Our Ref.: FAPESP 203 EP/10205387

Dear Dr. Weiss:

This application was transferred to you from the Frohwitter law firm (their reference no.: F81186EP). In reviewing the published European patent application, we noted that only two of the four inventors are recited on the face of the application. The previous representatives assured us that they mentioned four inventors in the designation of the inventor form filed July 3, 2002 with the European Patent Office. Is the recitation of only two inventors on the published application an error on the part of the EPO and, if so, may it be corrected?

We look forward to hearing from you.

Very truly yours,

Mary Anne Schofield
Mary Anne Schofield

MAS/bad

cc: Norman D. Hanson, Esq.

257223071

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